From: Matthew Miller
Sent: 9/10/2021 10:55:52 AM
To: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Cc: ACC Main Office <office@aganconsulting.com>;
Subject: RE: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status
Attachments: image001.jpg , image002.png

Kevin,

It has been a stressful few weeks for all of us, thank goodness for the rain here in South Lake Tahoe last night. I hope you are doing well through all of this. We just returned home after evacuating.

The information required to continue review was addressed in my email on September 7. Full disclosure, for any additional review, I need to invoice for the application fees, which are non-refundable if a denial is issued.

I appreciate your understanding,

Matt Miller, CESSWI (he/him/his)
Senior Environmental Specialist
Tahoe Regional Planning Agency
(775) 589-5234

From: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Sent: Friday, September 10, 2021 7:58 AM
To: Matthew Miller <mmiller@trpa.gov>
Cc: ACC Main Office <office@aganconsulting.com>; Mapes, John (john@johnmapesarchitects.com) <john@johnmapesarchitects.com>
Subject: [BULK] RE: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status

Matt,

It has been hectic these past few weeks as you may have experienced as well.

We will resend what we have to further confirm you have the documentation demonstrating we can make the findings necessary to approve this one buoy.

Have a good weekend.

Sincerely Yours,

Kevin M. Agan, Principal Consultant
AGAN CONSULTING CORPORATION

Physical Address:
120 Country Club Drive, Suite 19
Incline Village, NV 89451

Mailing Address:
Post Office Box 9180
Incline Village, NV 89450

Contact:
Voice: (775) 832-9300
Facsimile: (775) 832-9301
www.aganconsulting.com

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From: Matthew Miller <mmiller@trpa.gov>
Sent: Wednesday, September 8, 2021 1:57 PM
To: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Cc: ACC Main Office <office@aganconsulting.com>; Mapes, John (john@johnmapesarchitects.com) <john@johnmapesarchitects.com>
Subject: RE: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status

Kevin,

I reached out to you to discuss by phone and am following up by email as your voicemail is full.

The Code of Ordinances is clear about the minimum requirements for non-littoral buoys and unless I missed an email with additional documentation, that information was not included as part of the original submission.

b. TRPA may authorize a maximum of one existing buoy for a non-littoral parcel, provided:
   - (i) The non-littoral parcel owner provides clear evidence of the existence of the buoy prior to February 10, 1972; and
   - (ii) The non-littoral parcel owner provides a valid authorization from the applicable federal or state agency with jurisdiction at Lake Tahoe.

Feel free to call me if you have any questions,

Matt Miller, CESSWI (he/him/his)
Senior Environmental Specialist
Tahoe Regional Planning Agency
(775) 589-5234

From: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Sent: Tuesday, September 7, 2021 5:32 PM
To: Matthew Miller <mmiller@trpa.gov>
Cc: ACC Main Office <office@aganconsulting.com>; Mapes, John (john@johnmapesarchitects.com) <john@johnmapesarchitects.com>
Subject: RE: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status
Importance: High

Matt,

We will need to further discuss this pending buoy application and may need to take this to the Board, because what has been indicated is definitely not acceptable considering the history and circumstance.

Sincerely Yours,

Kevin M. Agan, Principal Consultant
AGAN CONSULTING CORPORATION

Physical Address:
120 Country Club Drive, Suite 19
Incline Village, NV 89451

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Post Office Box 9180
Incline Village, NV 89450

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From: Matthew Miller <mmiller@trpa.gov>
Sent: Tuesday, September 7, 2021 5:04 PM
To: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Cc: ACC Main Office <office@aganconsulting.com>; Tiffany Good <tgood@trpa.gov>
Subject: RE: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status

Kevin,

Thanks for your patience as our agency manages the impacts to our region and staff caused by the Caldor Fire.

This application is incomplete. A valid authorization from the applicable federal or state agency with jurisdiction at Lake Tahoe was not provided as part of the application, which is required given the subject parcel is non-littoral. In addition, the existence prior to 1972 through present day was not established. The buoy is not obvious in 1966 photographs and the current identified buoy location does not appear to correspond with that original location nor was it in the buoy survey performed in 2017. Lastly, it is unclear how TRPA could determine this buoy belongs to your client and not another party and no documentation to this effect was provided.

It appears from the comments in the submission that there is not documentation to make this application complete, would the owner like to withdrawal? Please be aware TRPA has already denied similar applications of this nature.

Regards,

Matt Miller, CESSWI (he/him/his)
Senior Environmental Specialist
Tahoe Regional Planning Agency
(775) 589-5234

From: Kevin M Agan / Agan Consulting Corporation <kevin@aganconsulting.com>
Sent: Tuesday, August 31, 2021 7:12 AM
To: Matthew Miller <mmiller@trpa.gov>
Cc: ACC Main Office <office@aganconsulting.com>
Subject: Lyon (Mapes) TRPA Mooring Registration No. 11309 Status
Importance: High

Matt,

We are following up to determine the TRPA processing status of this aging matter.

Please advise as soon as you can. Thank you.

Sincerely Yours,

Kevin M. Agan, Principal Consultant
AGAN CONSULTING CORPORATION

Physical Address:
120 Country Club Drive, Suite 19
Incline Village, NV 89451

Mailing Address:
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Matthew Miller

From: John Marshall
Sent: Tuesday, October 11, 2022 11:09 AM
To: Gordon, Garrett
Cc: Matthew Miller
Subject: Re: Lyon's Property

Garrett,

This email is in reply to all three recent emails to me concerning three buoy applications (350 Trout, Lyon's Property, and Woodland Pier). In regards Lyon's Property, the applications is for non-littoral buoys. Under 84.3.3.D.3.b, a non-littoral buoy owner must show (1) the buoy has been in Lake Tahoe since before 1972 and (2) is authorized by a state or federal agency with jurisdiction. In a recent non-littoral buoy application, the TRPA Governing Board found that a U.S. Army Corps of Engineer's "grandfathering" letter provided sufficient evidence of pre-1972 status but did not provide valid authorization as that phrase is used. The Governing Board's decision has been appealed to the federal U.S. District Court in Sacramento where the issue has been briefed and submitted on summary judgment. Unless Lyon's Property can submit other evidence of a "valid authorization", this applications should be withdrawn or TRPA will deny it.

As for the Woodland Pier buoy application (for a littoral parcel), the California State Lands Commission (CLSC) 1956 lease is no longer valid and therefore does not meet the Code criteria. Woodland Pier could possibly meet the alternative criteria for a pre-1972 buoys but we are having difficulty confirming the presence of the total number of buoys in the lake at that time. The aerials submitted do not provide clear evidence as the circled white marks could easily be white caps. We would like to meet to discuss what further evidence you could submit that would establish by clear evidence the presence of pre-1972 buoys associated with Woodland Pier.

As for the 350 Trout application, TRPA issued a permit for 2 buoys in 2009 and we will honor that permit.

If you have any questions, we can discuss.

John

John L. Marshall
General Counsel
(775) 303-4882 · jmarshall@trpa.gov

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From: Gordon, Garrett <GGordon@lewisroca.com>
Date: Tuesday, October 4, 2022 at 11:17 AM
To: John Marshall <jmarshall@trpa.gov>
Subject: Lyon's Property

John,

Thank you for recently speaking with me. As discussed, you agreed to review this buoy request. Please see the below summary and attached documentation for your further review. We strongly believe the Code requirements are satisfied.

…

This email is regarding Mooring Registration Submission # 11309 for the property located at 225 Rubicon Avenue, Homewood, CA 96141 on APN 085-252-001.

Staff has requested that the application provide additional information to move forward in the approval process pursuant to the requirements contained in TRPA Code Subsection 84.3.3(b).

Under the referenced ordinance, TRPA may authorize a maximum of one existing buoy for a non-littoral parcel, provided:

i. The non-littoral parcel owner provides clear evidence of the existence of the buoy prior to February 10, 1972; **and**
ii. The non-littoral parcel owner provides a valid authorization from the applicable federal or state agency with jurisdiction at Lake Tahoe.

Pursuant to subsection (i), attached to this email you will find aerial photographs of the existing buoy taken in 1966. In addition, attached to this email is a letter from the Regulatory Division of the U.S. Department of the Army confirming the existence of the buoy since 1966 as well as authorizing the continued retainment of the existing mooring buoy pursuant to the requirement of subsection (ii), thereby satisfying both evidential requirements for the authorization of the existing buoy contained in the referenced mooring registration submission.

Garrett D. Gordon
Partner

ggordon@lewisroca.com
D. 775.321.3420

LEWIS ROCA

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LEWIS ROCA ROTHGERBER CHRISTIE LLP

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Matthew Miller

From: Matthew Miller
Sent: Wednesday, October 12, 2022 11:00 AM
To: Kevin Agan
Cc: GGordon@lewisroca.com
Subject: Mooring Buoy Application - 225 Rubicon Avenue - #11309
Attachments: Lyons Property.pdf

Kevin,

See the attached email from John Marshall regarding this application.

To date, both requirements (TRPA Code 84.3.3.D.3.b) to authorize an existing mooring buoy for a non-littoral parcel have not been met TRPA Code 84.3.3.D.3.b.

By October 26, 2022, either request to withdraw the application or confirm the owner wishes to proceed with review and TRPA denial of the application based on the information provided today. If I do not receive a response, the application will be withdrawn as it is incomplete. If they wish to proceed, I will send you the application filing fee invoice, which must be paid before review can be completed and a determination rendered.

Regards,

Matt Miller (he/him/his)
Senior Environmental Specialist
(775) 589-5234 · mmiller@trpa.gov

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Please include registration number, parcel number, and/or address in email correspondence.